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TOWN OF SOUTHBRIDGE

SOUTHBRIDGE, MASSACHUSETTS 01550-2638

The Town of Southbridge Board of Health Regulations

CHAPTER 1:

Regulations on Tobacco Use including Restricting Youth Access

Section 1: Statement of Purpose

Whereas, tobacco use is a leading health concern in the Town of Southbridge and throughout the United States; and,

Whereas, tobacco use by minors is a continuing problem with grave public health consequences because more than 80% of all smokers begin using before the age of eighteen and more than 3,000 minors begin smoking every day in the United States; and,

Whereas CDC research suggests that nicotine is an addictive substance and Nicotine dependence is the most common form of chemical dependence in the United States, action is needed to curtail the easy access of tobacco products and nicotine delivery devices to minors.

The Town of Southbridge Board of Health hereby enacts the following regulations to apply within its town borders as a strict and enforceable system to prevent access to and illegal sale of tobacco products and nicotine delivery devices to minors.

Section 2: Authority

This regulation is promulgated by authority granted to local boards of health under Massachusetts General Laws, chapter 111, section 31.

Section 3: Adoption of Regulation

§3.1: These regulations are hereby adopted by vote of the Board of Health of the Town of Southbridge, Massachusetts on December 28, 2018. These amendments shall supersede all previous amendments or regulations related to youth access to tobacco and nicotine delivery devices and protecting the public from harmful effects of second hand smoke previously adopted by the Southbridge Board of Health.

§3.2: MGL ch. 270 §22: Smoking in Public Places; MGL ch. 270 §6: Tobacco Sales or Gifts to Minors, MGL ch. 270 §6A: Sale of Cigarette rolling papers to Minors, and 105 CMR 661.000: Regulations implementing Chapter 270 §22 are hereby adopted as local regulations for the Town of Southbridge with the following superseding amendments.

Section 4: Definitions

Employee – Any individual who performs services for an employer, whether for compensation or not

Employer – Any individual, partnership, association, corporation, trust or other organized group including the Town of Southbridge or any agency thereof which regularly uses the services of one or more employees.

Minor – Any individual who is under the age of Twenty-one (21)

Permit Holder – An owner or operator of any establishment engaged in the sale of tobacco products that applies for and receives a tobacco sales permit, or his/ her agent.

Premise – The structure, any outbuildings or storage containers and the property specifically associated with an establishment engaged in the sale of cigarettes, other tobacco products, or nicotine delivery devices.

Nicotine Delivery Device – Any article produced or manufactured wholly or in part of a tobacco plant or a tobacco substitute; or otherwise containing nicotine that is intended to be for human consumption. Nicotine Delivery Device, as applied to this regulation, shall not mean a tobacco substitute prescribed by a licensed physician.

Retail Store – Any establishment selling goods or articles or personal services to the public

Self Service Display – A display from which individual packs or cartons of tobacco products or nicotine delivery devices may be selected by a customer without a clerks assistance.

Tobacco Products – Cigarettes, cigars, bidis, chewing tobacco, pipe tobacco, snuff or tobacco in any of its forms

Tobacco Vending Machine – Any machine or device designed or used for the dispensing of cigarettes , cigars, tobacco, tobacco or Nicotine Delivery Device products upon the insertion of coins, trade checks, swipe cards, slips or any other form of payment.

Section 5: Tobacco Sales to Minors Prohibited

§5.1: Sales to Minors:

, Whoever sells or gives a cigarette, chewing tobacco, snuff or any tobacco product or any nicotine delivery device to any person under the age of Twenty-one (21) or, not being his parent or guardian, gives a cigarette, chewing tobacco, snuff or any tobacco product or any nicotine delivery device in any of its forms to any person under the age of Twenty-one (21) shall be punished according to the penalties as set forth in section 9 of these regulations.

§5.2: Posting the State Law

In conformance with Massachusetts General Law ch. 270 §7 a copy of Massachusetts General Law ch. 270 §6 shall be posted conspicuously by the owner or other person in charge of the retail store (or other place used to sell tobacco or tobacco products at retail.)

Section 6: Permitting

§6.1: Permit for Location and Sale of Tobacco, Tobacco Products, and Nicotine Delivery Devices

§6.1.a: After the effective date of this regulation, the Board of Health of the Town of Southbridge, upon acceptance and approval of an application, will issue a "Permit for Location and Sales" that will specify the name, address and approved location per the Board of Health of the Town of Southbridge or their designated agent(s) for retailers who sell tobacco products and nicotine delivery devices are sold or distributed.

§6.1.b: After the effective date of this regulation, all retailers who sell cigarettes, other tobacco products or nicotine delivery devices, will be required to hold and maintain a current valid "Permit for Location and Sales" from the Town of Southbridge Board of Health for each location at which cigarettes, other tobacco products or nicotine delivery devices.

§6.1.c: Upon approval and issuance of an initial "Permit for Location and Sales," the retailer will receive a sign in conformance with §5.2: Posting the State Law of this bylaw. It shall be the responsibility of the permit holder to post this sign in a conspicuous location clearly visible to persons approaching or at the point of sale. Any person not posting or failing to maintain said signs shall be in non-compliance with this regulation and be subject to penalties defined in section 9 of this regulation.

§6.1.d: A "Permit for Location and Sales," shall be issued for a calendar year or any part thereof and shall expire on December 31 of any year. Retailers shall submit applications for renewal at least two weeks prior to expiration.

§6.1.e: A "Permit for Location and Sales" shall be non-transferable as to applicant or location

§6.1.f: During such time that a "permit for Location and Sale" of cigarettes, other tobacco products and nicotine delivery devices has been suspended for violations of this regulation, all cigarettes, other tobacco products and nicotine delivery devices must be removed from the premises.

§6.1.g: Any person or entity selling any cigarettes, other tobacco products or nicotine delivery devices without applying for and being issued a "Permit for Location and Sales" shall be subject to a fine according to section 9 of this regulation.

Section 7: Prohibited vending Practices

§7.1: Prohibitions on the use of vending machines

After the effective date of this regulation, it shall be unlawful to sell, vend or otherwise distribute any cigarettes, other tobacco products or nicotine delivery devices through a vending machine

§7.2: Prohibition on Out of Package Sales Prohibited

No retailer or employee of a retailer shall break or otherwise open or repackage any cigarette or smokeless tobacco product package or sell or distribute individual cigarettes or reduced or altered packaged quantities of cigarettes or other tobacco product.

§7.3: Self-Service Display Restrictions

No retailer shall sell, vend or otherwise distribute any cigarettes, other tobacco products or nicotine delivery devices by means of a self-service display. All cigarettes, other tobacco products or nicotine delivery devices shall be located away from the customer and the general public or shall be secured by locking device from customer or general public access.

§7.4: Prohibition on distribution of samples or free tobacco products

No retailer or other person shall distribute or cause to be distributed any free samples of cigarettes, other tobacco products or nicotine delivery devices

§7.5: Prohibition mobile distribution

No retailer or other person shall distribute or cause to be distributed any cigarettes, other tobacco products or nicotine delivery devices from any mobile or non-fixed location

Section 8: Employee awareness/ Preventing Sales to Minors

§8.1: Awareness of regulations

No person, facility or any holder of a "Permit for Location and Sales" shall allow any employee to sell cigarettes, other tobacco product or nicotine delivery device until such employee reads the Southbridge Board of Health Code of Regulations chapter 1: "Regulations Restricting Youth Access to Tobacco and Nicotine Delivery Devices" and the Massachusetts State Law Chapter 270 Sections 6, 6a & 7 and the employee signs a statement, a copy of which shall be kept on site, that he/ she has read the regulation and laws.

§8.2: Prohibition on Distribution to Minors

It shall be a violation to sell, vend or otherwise distribute cigarettes, other tobacco products or nicotine delivery devices to persons under Twenty-one (21) years of age

§8.3: Determination of age of purchaser

Any employee selling cigarettes, other tobacco products or nicotine delivery device in any form will positively establish the purchasers age as Twenty-one (21) years or older by means of a government issued photographic identification containing the bearer's date of birth.

Section 9: Smoking in Public Places

§9.1: Prohibition of smoking in public places

In addition to those locations identified in MGL ch. 270 §22: Smoking in Public Places and 105 CMR 661.000: Regulations implementing ch.270§22 smoking shall be prohibited in the following locations

9.1a. No person shall smoke, use e-cigarettes, or other nicotine delivery device in any municipal athletic park including municipal playgrounds

9.1b. No person shall smoke use e-cigarettes, or other nicotine delivery devise within Fifteen (15) feet of any municipal playground or any playground within a municipal park

9.1c. No person shall smoke in any area within Fifteen (15) feet of an entranceway of any space designated by MGL ch. 270 §22: Smoking In Public Places and 105 CMR 661.000: Regulations implementing ch.270§22

Section 10: Penalties

§10.1: Any person who violates any provision of chapter 1 of the Town of Southbridge Board of Health Code of Regulations or;

Any person who sells a cigarette, chewing tobacco, snuff, or any other tobacco product, or nicotine delivery products in any of its forms to any person under the age of Twenty-one (21) or;

Not being his/her parent or guardian, any person who gives a cigarette, chewing tobacco, snuff, tobacco, or nicotine delivery products in any of its forms to any person under the age of Twenty-one (21), Shall be punished according to and in conformance with Massachusetts General Laws, C. 270, § 6 & 6A, as hereafter amended with the following local amendments:

§10.1.a: 1st offense

In the case of a first violation, the owner manager, or permit holder and his/ her agent(s) or other person not in compliance with all the provisions of this regulation shall pay a fine of one hundred dollars (\$100.00)

§10.1.b: 2nd offense within 24 months of first offense:

In the case of a second violation within 24 months of the first violation, the owner manager, or permit holder and his/ her agent(s) or other person not in compliance with all the provisions of this regulation shall pay a fine of two hundred dollars (\$200.00) and, where applicable, their permit shall be suspended for 7 days

§10.1.c: 3rd offense within 24 months of the first offense:

In the case of a third violation within 24 months of the first violation, the owner manager, or permit holder and his/ her agent(s) or other person not in compliance with all the provisions of this regulation shall pay a fine of three hundred dollars (\$300.00) and, where applicable, their permit shall be suspended for 30 days

§10.1.d: 4th offense within 24 months of the first offense:

In the case of a fourth violation within 24 months of the first violation, the owner manager, or permit holder and his/ her agent(s) not in compliance with all the provisions of this regulation shall have their permit immediately suspended for 60 days.

Additionally, a hearing shall be scheduled before the Southbridge Board of Health with intent to review the permit and consider further action that may include permanent revocation of the right to sell tobacco, other tobacco products and nicotine delivery devices in the Town of Southbridge.

§10.1.e: Penalty for sales during suspension or other violation of section 9 :

If any facility or establishment is found to have tobacco, other tobacco products or nicotine delivery devices on the premises in violation of §6.1.f or an owner, manager, or permit holder or his/ her agent(s) is found selling, vending or otherwise distributing tobacco, other tobacco

products or nicotine delivery devices during periods when their permit is suspended shall have their permit immediately suspended for 60 days.

Additionally; a hearing shall be scheduled before the Southbridge Board of Health with intent to review the permit and consider further action that may include permanent revocation of the right to sell tobacco, other tobacco products and nicotine delivery devices in the Town of Southbridge.

Section 11: Authority to Enforce

Section 11: The Southbridge Police Department, the Southbridge Board of Health and the designated agents of the Southbridge Board of Health, are hereby authorized to enforce this code.

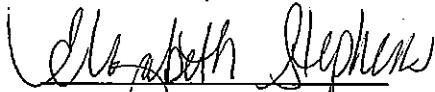
Section 12: Severability

If any provisions of these regulations are declared invalid or unenforceable, the remaining provisions shall not be affected thereby but shall continue in full force and effect.

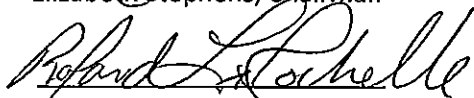
AS VOTED AND APPROVED

BY THE SOUTHBRIDGE BOARD OF HEALTH ON

December 27, 2018

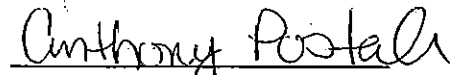


Elizabeth Stephens, Chairman

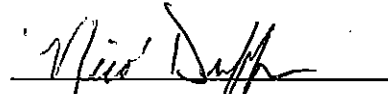


Rolland LaRoche, Vice Chairman

David Williams



Anthony Postale



Nicole Duffey